

Senate Engrossed House Bill

FILED

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SECRETARY OF STATE**

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CHAPTER 212

HOUSE BILL 2042

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-550 AND 41-1750, ARIZONA REVISED
STATUTES; RELATING TO SCHOOL EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to
3 read:

4 15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a
7 written application to a proposed sponsor as prescribed in subsection C of
8 this section. The application shall include a detailed business plan for the
9 charter school and may include a mission statement for the charter school, a
10 description of the charter school's organizational structure and the
11 governing body, a financial plan for the first three years of operation of
12 the charter school, a description of the charter school's hiring policy, the
13 name of the charter school's applicant or applicants and requested sponsor, a
14 description of the charter school's facility and the location of the school,
15 a description of the grades being served and an outline of criteria designed
16 to measure the effectiveness of the school.

17 B. The sponsor of a charter school may contract with a public body,
18 private person or private organization for the purpose of establishing a
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either a school district
21 governing board, the state board of education or the state board for charter
22 schools, subject to the following requirements:

23 1. For charter schools that submit an application for sponsorship to a
24 school district governing board:

25 (a) An applicant for a charter school may submit its application to a
26 school district governing board, which shall either accept or reject
27 sponsorship of the charter school within ninety days. An applicant may
28 submit a revised application for reconsideration by the governing board. If
29 the governing board rejects the application, the governing board shall notify
30 the applicant in writing of the reasons for the rejection. The applicant may
31 request, and the governing board may provide, technical assistance to improve
32 the application.

33 (b) In the first year that a school district is determined to be out
34 of compliance with the uniform system of financial records, within fifteen
35 days of the determination of noncompliance, the school district shall notify
36 by certified mail each charter school sponsored by the school district that
37 the school district is out of compliance with the uniform system of financial
38 records. The notification shall include a statement that if the school
39 district is determined to be out of compliance for a second consecutive year,
40 the charter school will be required to transfer sponsorship to another entity
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is
43 determined to be out of compliance with the uniform system of financial
44 records, within fifteen days of the determination of noncompliance, the
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the
2 uniform system of financial records. A charter school that receives a
3 notification of school district noncompliance pursuant to this subdivision
4 shall file a written sponsorship transfer application within forty-five days
5 with the state board of education, the state board for charter schools or the
6 school district governing board if the charter school is located within the
7 geographic boundaries of that school district. A charter school that
8 receives a notification of school district noncompliance may request an
9 extension of time to file a sponsorship transfer application and the state
10 board of education, the state board for charter schools or a school district
11 governing board may grant an extension of not more than an additional thirty
12 days if good cause exists for the extension. The state board of education
13 and the state board for charter schools shall approve a sponsorship transfer
14 application pursuant to this paragraph.

15 (d) Beginning July 1, 2000, a school district governing board shall
16 not grant a charter to a charter school that is located outside the
17 geographic boundaries of that school district.

18 (e) A school district that has been determined to be out of compliance
19 with the uniform system of financial records during either of the previous
20 two fiscal years shall not sponsor a new or transferring charter school.

21 2. The applicant may submit the application to the state board of
22 education or the state board for charter schools. The state board of
23 education or the state board for charter schools may approve the application
24 if the application meets the requirements of this article and may approve the
25 charter if the proposed sponsor determines, within its sole discretion, that
26 the applicant is sufficiently qualified to operate a charter school. The
27 state board of education or the state board for charter schools may approve
28 any charter schools transferring charters. The state board of education and
29 the state board for charter schools shall approve any charter schools
30 transferring charters from a school district that is determined to be out of
31 compliance with the uniform system of financial records pursuant to this
32 section, but may require the charter school to sign a new charter that is
33 equivalent to the charter awarded by the former sponsor. If the state board
34 of education or the state board for charter schools rejects the preliminary
35 application, the state board of education or the state board for charter
36 schools shall notify the applicant in writing of the reasons for the
37 rejection and of suggestions for improving the application. An applicant may
38 submit a revised application for reconsideration by the state board of
39 education or the state board for charter schools. The applicant may request,
40 and the state board of education or the state board for charter schools may
41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a
43 full set of fingerprints to the approving agency for the purpose of obtaining
44 a state and federal criminal records check pursuant to section 41-1750 and
45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued
2 pursuant to title 41, chapter 12, article 3.1. The department of public
3 safety may exchange this fingerprint data with the federal bureau of
4 investigation. The criminal records check shall be completed before the
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,
7 laboratory or other teacher or indirectly as a supervisory teacher, speech
8 therapist or principal shall have a valid fingerprint clearance card that is
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
10 volunteer or guest speaker who is accompanied in the classroom by a person
11 with a valid fingerprint clearance card. A charter school shall not employ a
12 teacher whose certificate has been revoked for a violation of section 15-507
13 or 15-550 or for any offense that placed a pupil in danger. All other
14 personnel shall be fingerprint checked pursuant to section 15-512. Before
15 employment, the charter school shall make documented, good faith efforts to
16 contact previous employers of a person to obtain information and
17 recommendations that may be relevant to a person's fitness for employment as
18 prescribed in section 15-512, subsection F. The charter school shall notify
19 the department of public safety if the charter school or sponsor receives
20 credible evidence that a person who possesses a valid fingerprint clearance
21 card is arrested for or is charged with an offense listed in section
22 41-1758.03, subsection B. Charter schools may hire personnel that have not
23 yet received a fingerprint clearance card if proof is provided of the
24 submission of an application to the department of public safety for a
25 fingerprint clearance card and if the charter school that is seeking to hire
26 the applicant does all of the following:

27 (a) Documents in the applicant's file the necessity for hiring and
28 placement of the applicant before receiving a fingerprint clearance card.

29 (b) Ensures that the department of public safety completes a statewide
30 ~~criminal history information~~ RECORDS check on the applicant. A statewide
31 ~~criminal history information~~ RECORDS check shall be completed by the
32 department of public safety every one hundred twenty days until the date that
33 the fingerprint check is completed.

34 (c) Obtains references from the applicant's current employer and the
35 two most recent previous employers except for applicants who have been
36 employed for at least five years by the applicant's most recent employer.

37 (d) Provides general supervision of the applicant until the date that
38 the fingerprint card is obtained.

39 (e) Completes a search of criminal records in all local jurisdictions
40 outside of this state in which the applicant has lived in the previous five
41 years.

42 (f) Verifies the fingerprint status of the applicant with the
43 department of public safety.

1 5. If a charter school operator is not already subject to a public
2 meeting or hearing by the municipality in which the charter school is
3 located, the operator of a charter school shall conduct a public meeting at
4 least thirty days before the charter school operator opens a site or sites
5 for the charter school. The charter school operator shall post notices of
6 the public meeting in at least three different locations that are within
7 three hundred feet of the proposed charter school site.

8 6. A PERSON WHO IS EMPLOYED BY A CHARTER SCHOOL OR WHO IS AN APPLICANT
9 FOR EMPLOYMENT WITH A CHARTER SCHOOL, WHO IS ARRESTED FOR OR CHARGED WITH A
10 NONAPPEALABLE OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B AND WHO DOES
11 NOT IMMEDIATELY REPORT THE ARREST OR CHARGE TO THE PERSON'S SUPERVISOR OR
12 POTENTIAL EMPLOYER IS GUILTY OF UNPROFESSIONAL CONDUCT AND THE PERSON SHALL
13 BE IMMEDIATELY DISMISSED FROM EMPLOYMENT WITH THE CHARTER SCHOOL OR
14 IMMEDIATELY EXCLUDED FROM POTENTIAL EMPLOYMENT WITH THE CHARTER SCHOOL.

15 7. A PERSON WHO IS EMPLOYED BY A CHARTER SCHOOL AND WHO IS CONVICTED
16 OF ANY NONAPPEALABLE OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B OR IS
17 CONVICTED OF ANY NONAPPEALABLE OFFENSE THAT AMOUNTS TO UNPROFESSIONAL CONDUCT
18 UNDER SECTION 15-550 SHALL IMMEDIATELY DO ALL OF THE FOLLOWING:

19 (a) SURRENDER ANY CERTIFICATES ISSUED BY THE DEPARTMENT OF EDUCATION.

20 (b) NOTIFY THE PERSON'S EMPLOYER OR POTENTIAL EMPLOYER OF THE
21 CONVICTION.

22 (c) NOTIFY THE DEPARTMENT OF PUBLIC SAFETY OF THE CONVICTION.

23 (d) SURRENDER THE PERSON'S FINGERPRINT CLEARANCE CARD.

24 D. A board that is authorized to sponsor charter schools pursuant to
25 this article has no legal authority over or responsibility for a charter
26 school sponsored by a different board. This subsection does not apply to the
27 state board of education's duty to exercise general supervision over the
28 public school system pursuant to section 15-203, subsection A, paragraph 1.

29 E. The charter of a charter school shall ensure the following:

30 1. Compliance with federal, state and local rules, regulations and
31 statutes relating to health, safety, civil rights and insurance. The
32 department of education shall publish a list of relevant rules, regulations
33 and statutes to notify charter schools of their responsibilities under this
34 paragraph.

35 2. That it is nonsectarian in its programs, admission policies and
36 employment practices and all other operations.

37 3. That it provides a comprehensive program of instruction for at
38 least a kindergarten program or any grade between grades one and twelve,
39 except that a school may offer this curriculum with an emphasis on a specific
40 learning philosophy or style or certain subject areas such as mathematics,
41 science, fine arts, performance arts or foreign language.

1 4. That it designs a method to measure pupil progress,— toward the
2 pupil outcomes adopted by the state board of education pursuant to section
3 15-741.01, including participation in the Arizona instrument to measure
4 standards test and the nationally standardized norm-referenced achievement
5 test as designated by the state board and the completion and distribution of
6 an annual report card as prescribed in chapter 7, article 3 of this title.

7 5. That, except as provided in this article and in its charter, it is
8 exempt from all statutes and rules relating to schools, governing boards and
9 school districts.

10 6. That, except as provided in this article, it is subject to the same
11 financial and electronic data submission requirements as a school district,
12 including the uniform system of financial records as prescribed in chapter 2,
13 article 4 of this title, procurement rules as prescribed in section 15-213
14 and audit requirements. The auditor general shall conduct a comprehensive
15 review and revision of the uniform system of financial records to ensure that
16 the provisions of the uniform system of financial records that relate to
17 charter schools are in accordance with commonly accepted accounting
18 principles used by private business. A school's charter may include
19 exceptions to the requirements of this paragraph that are necessary as
20 determined by the district governing board, the state board of education or
21 the state board for charter schools. The department of education or the
22 office of the auditor general may conduct financial, program or compliance
23 audits.

24 7. Compliance with all federal and state laws relating to the
25 education of children with disabilities in the same manner as a school
26 district.

27 8. That it provides for a governing body for the charter school that
28 is responsible for the policy decisions of the charter school.

29 9. That it provides a minimum of one hundred seventy-five
30 instructional days before June 30 of each fiscal year unless it is operating
31 on an alternative calendar approved by its sponsor. The superintendent of
32 public instruction shall adjust the apportionment schedule accordingly to
33 accommodate a charter school utilizing an alternative calendar.

34 F. The charter of a charter school shall include a description of the
35 charter school's personnel policies, personnel qualifications and method of
36 school governance and the specific role and duties of the sponsor of the
37 charter school. A charter school shall keep on file the resumes of all
38 current and former employees who provide instruction to pupils at the charter
39 school. Resumes shall include an individual's educational and teaching
40 background and experience in a particular academic content subject area. A
41 charter school shall inform parents and guardians of the availability of the
42 resume information and shall make the resume information available for
43 inspection on request of parents and guardians of pupils enrolled at the
44 charter school. Nothing in this subsection shall be construed to require any
45 charter school to release personally identifiable information in relation to

1 any teacher or employee including the teacher's or employee's address,
2 salary, social security number or telephone number.

3 G. The charter of a charter school may be amended at the request of
4 the governing body of the charter school and on the approval of the sponsor.

5 H. Charter schools may contract, sue and be sued.

6 I. An approved plan to establish a charter school is effective for
7 fifteen years from the first day of operation. At the conclusion of the
8 first fourteen years of operation, the charter school may apply for renewal.
9 In addition to any other requirements, the application for renewal shall
10 include a detailed business plan for the charter school. The sponsor may
11 deny the request for renewal if, in its judgment, the charter school has
12 failed to complete the obligations of the contract or has failed to comply
13 with this article. A sponsor shall give written notice of its intent not to
14 renew the charter school's request for renewal to the charter school at least
15 twelve months before the expiration of the approved plan to allow the charter
16 school an opportunity to apply to another sponsor to transfer the operation
17 of the charter school. If the operation of the charter school is transferred
18 to another sponsor, the fifteen year period of the current charter shall be
19 maintained. A sponsor shall review a charter at five year intervals and may
20 revoke a charter at any time if the charter school breaches one or more
21 provisions of its charter. At least ninety days before the effective date of
22 the proposed revocation the sponsor shall give written notice to the operator
23 of the charter school of its intent to revoke the charter. Notice of the
24 sponsor's intent to revoke the charter shall be delivered personally to the
25 operator of the charter school or sent by certified mail, return receipt
26 requested, to the address of the charter school. The notice shall
27 incorporate a statement of reasons for the proposed revocation of the
28 charter. The sponsor shall allow the charter school at least ninety days to
29 correct the problems associated with the reasons for the proposed revocation
30 of the charter. The final determination of whether to revoke the charter
31 shall be made at a public hearing called for such purpose.

32 J. After renewal of the charter at the end of the fifteen year period
33 described in subsection I of this section, the charter may be renewed for
34 successive periods of fifteen years if the charter school and its sponsor
35 deem that the school is in compliance with its own charter and this article.

36 K. A charter school that is sponsored by the state board of education
37 or the state board for charter schools may not be located on the property of
38 a school district unless the district governing board grants this authority.

39 L. A governing board or a school district employee who has control
40 over personnel actions shall not take unlawful reprisal against another
41 employee of the school district because the employee is directly or
42 indirectly involved in an application to establish a charter school. A
43 governing board or a school district employee shall not take unlawful
44 reprisal against an educational program of the school or the school district
45 because an application to establish a charter school proposes the conversion

1 of all or a portion of the educational program to a charter school. ~~As used~~
2 ~~in~~ FOR THE PURPOSES OF this subsection, "unlawful reprisal" means an action
3 that is taken by a governing board or a school district employee as a direct
4 result of a lawful application to establish a charter school and that is
5 adverse to another employee or an education program and:

6 1. With respect to a school district employee, results in one or more
7 of the following:

- 8 (a) Disciplinary or corrective action.
- 9 (b) Detail, transfer or reassignment.
- 10 (c) Suspension, demotion or dismissal.
- 11 (d) An unfavorable performance evaluation.
- 12 (e) A reduction in pay, benefits or awards.
- 13 (f) Elimination of the employee's position without a reduction in
14 force by reason of lack of monies or work.
- 15 (g) Other significant changes in duties or responsibilities that are
16 inconsistent with the employee's salary or employment classification.

17 2. With respect to an educational program, results in one or more of
18 the following:

- 19 (a) Suspension or termination of the program.
- 20 (b) Transfer or reassignment of the program to a less favorable
21 department.
- 22 (c) Relocation of the program to a less favorable site within the
23 school or school district.
- 24 (d) Significant reduction or termination of funding for the program.

25 M. Charter schools shall secure insurance for liability and property
26 loss. The governing body of a charter school that is sponsored by the state
27 board of education or the state board for charter schools may enter into an
28 intergovernmental agreement or otherwise contract to participate in an
29 insurance program offered by a risk retention pool established pursuant to
30 section 11-952.01 or 41-621.01 or the charter school may secure its own
31 insurance coverage. The pool may charge the requesting charter school
32 reasonable fees for any services it performs in connection with the insurance
33 program.

34 N. Charter schools do not have the authority to acquire property by
35 eminent domain.

36 O. A sponsor, including members, officers and employees of the
37 sponsor, is immune from personal liability for all acts done and actions
38 taken in good faith within the scope of its authority.

39 P. Charter school sponsors and this state are not liable for the debts
40 or financial obligations of a charter school or persons who operate charter
41 schools.

42 Q. The sponsor of a charter school shall establish procedures to
43 conduct administrative hearings on determination by the sponsor that grounds
44 exist to revoke a charter. Procedures for administrative hearings shall be
45 similar to procedures prescribed for adjudicative proceedings in title 41,

chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, final decisions of the state board of education and the state board for charter schools from hearings conducted pursuant to this subsection are subject to judicial review pursuant to title 12, chapter 7, article 6.

R. The sponsoring entity of a charter school shall have oversight and administrative responsibility for the charter schools that it sponsors.

S. Charter schools may pledge, assign or encumber their assets to be used as collateral for loans or extensions of credit.

T. All property accumulated by a charter school shall remain the property of the charter school.

U. Charter schools may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the charter school may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the charter school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

V. A transfer of a charter to another sponsor, a transfer of a charter school site to another sponsor or a transfer of a charter school site to a different charter shall be completed before the beginning of the fiscal year that the transfer is scheduled to become effective. An entity that sponsors charter schools may accept a transferring school after the beginning of the fiscal year if the transfer is approved by the superintendent of public instruction. The superintendent of public instruction shall have the discretion to consider each transfer during the fiscal year on a case by case basis. If a charter school is sponsored by a school district that is determined to be out of compliance with this title, the uniform system of financial records or any other state or federal law, the charter school may transfer to another sponsoring entity at any time during the fiscal year.

W. The sponsoring entity may not charge any fees to a charter school that it sponsors unless the sponsor has provided services to the charter school and the fees represent the full value of those services provided by the sponsor. On request, the value of the services provided by the sponsor to the charter school shall be demonstrated to the department of education.

Sec. 2. Section 15-203, Arizona Revised Statutes, is amended to read:

15-203. Powers and duties

A. The state board of education shall:

1. Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose.

- 1 2. Keep a record of its proceedings.
- 2 3. Make rules for its own government.
- 3 4. Determine the policy and work undertaken by it.
- 4 5. Appoint its employees, on the recommendation of the superintendent
- 5 of public instruction.
- 6 6. Prescribe the duties of its employees if not prescribed by statute.
- 7 7. Delegate to the superintendent of public instruction the execution
- 8 of board policies and rules.
- 9 8. Recommend to the legislature changes or additions to the statutes
- 10 pertaining to schools.
- 11 9. Prepare, publish and distribute reports concerning the educational
- 12 welfare of this state.
- 13 10. Prepare a budget for expenditures necessary for proper maintenance
- 14 of the board and accomplishment of its purposes and present the budget to the
- 15 legislature.
- 16 11. Aid in the enforcement of laws relating to schools.
- 17 12. Prescribe a minimum course of study in the common schools, minimum
- 18 competency requirements for the promotion of pupils from the third grade and
- 19 minimum course of study and competency requirements for the promotion of
- 20 pupils from the eighth grade. The state board of education shall prepare a
- 21 fiscal impact statement of any proposed changes to the minimum course of
- 22 study or competency requirements and, on completion, shall send a copy to the
- 23 director of the joint legislative budget committee and the executive director
- 24 of the school facilities board. The state board of education shall not adopt
- 25 any changes in the minimum course of study or competency requirements in
- 26 effect on July 1, 1998 that will have a fiscal impact on school capital
- 27 costs.
- 28 13. Prescribe minimum course of study and competency requirements for
- 29 the graduation of pupils from high school. The state board of education
- 30 shall prepare a fiscal impact statement of any proposed changes to the
- 31 minimum course of study or competency requirements and, on completion, shall
- 32 send a copy to the director of the joint legislative budget committee and the
- 33 executive director of the school facilities board. The state board of
- 34 education shall not adopt any changes in the minimum course of study or
- 35 competency requirements in effect on July 1, 1998 that will have a fiscal
- 36 impact on school capital costs.
- 37 14. Supervise and control the certification of persons engaged in
- 38 instructional work directly as any classroom, laboratory or other teacher or
- 39 indirectly as a supervisory teacher, speech therapist, principal or
- 40 superintendent in a school district, including school district preschool
- 41 programs, or any other educational institution below the community college,
- 42 college or university level, and prescribe rules for certification, including
- 43 rules for certification of teachers who have teaching experience and who are
- 44 trained in other states, which are not unnecessarily restrictive and are
- 45 substantially similar to the rules prescribed for the certification of

1 teachers trained in this state. The rules shall require applicants for all
2 certificates for common school instruction to complete a minimum of
3 forty-five classroom hours or three college level credit hours, or the
4 equivalent, of training in research based systematic phonics instruction from
5 a public or private provider. The rules shall not require a teacher to
6 obtain a master's degree or to take any additional graduate courses as a
7 condition of certification or recertification. The rules shall allow a
8 general equivalency diploma to be substituted for a high school diploma in
9 the certification of emergency substitute teachers.

10 15. Adopt a list of approved tests for determining special education
11 assistance to gifted pupils as defined in and as provided in chapter 7,
12 article 4.1 of this title. The adopted tests shall provide separate scores
13 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
14 shall be capable of providing reliable and valid scores at the highest ranges
15 of the score distribution.

16 16. Adopt rules governing the methods for the administration of all
17 proficiency examinations.

18 17. Adopt proficiency examinations for its use. The state board of
19 education shall determine the passing score for the proficiency examination.

20 18. Include within its budget the cost of contracting for the purchase,
21 distribution and scoring of the examinations as provided in paragraphs 16 and
22 17 of this subsection.

23 19. Supervise and control the qualifications of professional
24 nonteaching school personnel and prescribe standards relating to
25 qualifications.

26 20. Impose such disciplinary action, including the issuance of a letter
27 of censure, suspension, suspension with conditions or revocation of a
28 certificate, upon a finding of immoral or unprofessional conduct.

29 21. Establish an assessment, data gathering and reporting system for
30 pupil performance as prescribed in chapter 7, article 3 of this title.

31 22. Adopt a rule to promote braille literacy pursuant to section
32 15-214.

33 23. Adopt rules prescribing procedures for the investigation by the
34 department of education of every written complaint alleging that a
35 certificated person has engaged in immoral conduct.

36 24. For purposes of federal law, serve as the state board for
37 vocational and technological education and meet at least four times each year
38 solely to execute the powers and duties of the state board for vocational and
39 technological education.

40 25. Develop and maintain a handbook for use in the schools of this
41 state that provides guidance for the teaching of moral, civic and ethical
42 education. The handbook shall promote existing curriculum frameworks and
43 shall encourage school districts to recognize moral, civic and ethical values
44 within instructional and programmatic educational development programs for

1 the general purpose of instilling character and ethical principles in pupils
2 in kindergarten programs and grades one through twelve.

3 26. Require pupils to recite the following passage from the declaration
4 of independence for pupils in grades four through six at the commencement of
5 the first class of the day in the schools, except that a pupil shall not be
6 required to participate if the pupil or the pupil's parent or guardian
7 objects:

8 We hold these truths to be self-evident, that all men are
9 created equal, that they are endowed by their creator with
10 certain unalienable rights, that among these are life, liberty
11 and the pursuit of happiness. That to secure these rights,
12 governments are instituted among men, deriving their just powers
13 from the consent of the governed. . . .

14 27. Adopt rules that provide for teacher certification reciprocity.
15 The rules shall provide for a one year reciprocal teaching certificate with
16 minimum requirements including valid teacher certification from a state with
17 substantially similar criminal history or teacher fingerprinting requirements
18 and proof of the submission of an application for a fingerprint clearance
19 card pursuant to title 41, chapter 12, article 3.1.

20 28. Adopt rules that will be in effect until December 31, 2006 and that
21 provide for the presentation of an honorary high school diploma to a person
22 who has never obtained a high school diploma and who meets each of the
23 following requirements:

24 (a) Is at least sixty-five years of age.

25 (b) Currently resides in this state.

26 (c) Provides documented evidence from the Arizona department of
27 veterans' services that the person enlisted in the armed forces of the United
28 States before completing high school in a public or private school.

29 (d) Was honorably discharged from service with the armed forces of the
30 United States.

31 29. Cooperate with the Arizona-Mexico commission in the governor's
32 office and with researchers at universities in this state to collect data and
33 conduct projects in the United States and Mexico on issues that are within
34 the scope of the duties of the department of education and that relate to
35 quality of life, trade and economic development in this state in a manner
36 that will help the Arizona-Mexico commission to assess and enhance the
37 economic competitiveness of this state and of the Arizona-Mexico region.

38 30. Adopt rules to define and provide guidance to schools as to the
39 activities that would constitute immoral or unprofessional conduct of
40 certificated persons.

41 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
42 and twelve to volunteer for twenty hours of community service before
43 graduation from high school. A school district that complies with the
44 guidelines adopted pursuant to this paragraph is not liable for damages
45 resulting from a pupil's participation in community service unless the school

1 district is found to have demonstrated wanton or reckless disregard for the
2 safety of the pupil and other participants in community service. For the
3 purposes of this paragraph, "community service" may include service learning.
4 The guidelines shall include the following:

5 (a) A list of the general categories in which community service may be
6 performed.

7 (b) A description of the methods by which community service will be
8 monitored.

9 (c) A consideration of risk assessment for community service projects.

10 (d) Orientation and notification procedures of community service
11 opportunities for pupils entering grade nine including the development of a
12 notification form. The notification form shall be signed by the pupil and
13 the pupil's parent or guardian, except that a pupil shall not be required to
14 participate in community service if the parent or guardian notifies the
15 principal of the pupil's school in writing that the parent or guardian does
16 not wish the pupil to participate in community service.

17 (e) Procedures for a pupil in grade nine to prepare a written proposal
18 that outlines the type of community service that the pupil would like to
19 perform and the goals that the pupil hopes to achieve as a result of
20 community service. The pupil's written proposal shall be reviewed by a
21 faculty advisor, a guidance counselor or any other school employee who is
22 designated as the community service program coordinator for that school. The
23 pupil may alter the written proposal at any time before performing community
24 service.

25 (f) Procedures for a faculty advisor, a guidance counselor or any
26 other school employee who is designated as the community service program
27 coordinator to evaluate and certify the completion of community service
28 performed by pupils.

29 32. To facilitate the transfer of military personnel and their
30 dependents to and from the public schools of this state, pursue, in
31 cooperation with the Arizona board of regents, reciprocity agreements with
32 other states concerning the transfer credits for military personnel and their
33 dependents. A reciprocity agreement entered into pursuant to this paragraph
34 shall:

35 (a) Address procedures for each of the following:

36 (i) The transfer of student records.

37 (ii) Awarding credit for completed course work.

38 (iii) Permitting a student to satisfy the graduation requirements
39 prescribed in section 15-701.01 through the successful performance on
40 comparable exit-level assessment instruments administered in another state.

41 (b) Include appropriate criteria developed by the state board of
42 education and the Arizona board of regents.

43 33. Adopt guidelines that school district governing boards shall use in
44 identifying pupils who are eligible for gifted programs and in providing
45 gifted education programs and services. The state board of education shall

1 adopt any other guidelines and rules that it deems necessary in order to
2 carry out the purposes of chapter 7, article 4.1 of this title.

3 34. ADOPT RULES TO PROHIBIT A PERSON WHO VIOLATES THE NOTIFICATION
4 REQUIREMENTS PRESCRIBED IN SECTION 15-183, SUBSECTION C, PARAGRAPH 6 OR
5 SECTION 15-550, SUBSECTION C FROM CERTIFICATION PURSUANT TO THIS TITLE UNTIL
6 THE PERSON IS NO LONGER CHARGED OR IS ACQUITTED OF ANY OFFENSES LISTED IN
7 SECTION 41-1758.03, SUBSECTION B. THE BOARD SHALL ALSO ADOPT RULES TO
8 PROHIBIT A PERSON WHO VIOLATES THE NOTIFICATION REQUIREMENTS, CERTIFICATION
9 SURRENDER REQUIREMENTS OR FINGERPRINT CLEARANCE CARD SURRENDER REQUIREMENTS
10 PRESCRIBED IN SECTION 15-183, SUBSECTION C, PARAGRAPH 7 OR SECTION 15-550,
11 SUBSECTION D FROM CERTIFICATION PURSUANT TO THIS TITLE FOR AT LEAST TEN YEARS
12 AFTER THE DATE OF THE VIOLATION.

13 B. The state board of education may:

14 1. Contract.

15 2. Sue and be sued.

16 3. Distribute and score the tests prescribed in chapter 7, article 3
17 of this title.

18 4. Provide for an advisory committee to conduct hearings and
19 screenings to determine whether grounds exist to impose disciplinary action
20 against a certificated person, whether grounds exist to reinstate a revoked
21 or surrendered certificate and whether grounds exist to approve or deny an
22 initial application for certification or a request for renewal of a
23 certificate. The board may delegate its responsibility to conduct hearings
24 and screenings to its advisory committee. Hearings shall be conducted
25 pursuant to title 41, chapter 6, article 6.

26 5. Proceed with the disposal of any complaint requesting disciplinary
27 action or with any disciplinary action against a person holding a certificate
28 as prescribed in subsection A, paragraph 14 of this section after the
29 suspension or expiration of the certificate or surrender of the certificate
30 by the holder.

31 6. Assess costs and reasonable attorney fees against a person who
32 files a frivolous complaint or who files a complaint in bad faith. Costs
33 assessed pursuant to this paragraph shall not exceed the expenses incurred by
34 the state board in the investigation of the complaint.

35 Sec. 3. Section 15-550, Arizona Revised Statutes, is amended to read:

36 15-550. Unprofessional conduct; penalty

37 A. A teacher who has been convicted of a dangerous crime against
38 children as defined in section 13-604.01 or has been convicted of a violation
39 of section 13-1404 or 13-1406 in which the victim was a minor or section
40 13-1405 or an act committed in another state or territory which if committed
41 in this state would have been a dangerous crime against children or a
42 violation of section 13-1404 OR 13-1406 in which the victim was a minor or a
43 violation of section 13-1405 or ~~13-1406~~ is guilty of unprofessional conduct
44 and the teacher's certificate shall be revoked permanently immediately on
45 notification of conviction by the clerk of the court or the magistrate.

1 B. A teacher who has been convicted of a preparatory offense as
2 prescribed in section 13-1001 of any of the offenses prescribed in subsection
3 A of this section or any crime that requires the teacher to register as a sex
4 offender is guilty of unprofessional conduct and the teacher's certificate
5 shall be permanently revoked on notification of the conviction by a court of
6 competent jurisdiction.

7 C. A PERSON WHO IS EMPLOYED BY A SCHOOL DISTRICT OR WHO IS AN
8 APPLICANT FOR EMPLOYMENT WITH A SCHOOL DISTRICT, WHO IS ARRESTED FOR OR
9 CHARGED WITH ANY NONAPPEALABLE OFFENSE LISTED IN SECTION 41-1758.03,
10 SUBSECTION B AND WHO DOES NOT IMMEDIATELY REPORT THE ARREST OR CHARGE TO THE
11 PERSON'S SUPERVISOR OR POTENTIAL EMPLOYER IS GUILTY OF UNPROFESSIONAL CONDUCT
12 AND THE PERSON SHALL BE IMMEDIATELY DISMISSED FROM EMPLOYMENT WITH THE SCHOOL
13 DISTRICT OR IMMEDIATELY EXCLUDED FROM POTENTIAL EMPLOYMENT WITH THE SCHOOL
14 DISTRICT.

15 D. A PERSON WHO IS EMPLOYED BY A SCHOOL DISTRICT AND WHO IS CONVICTED
16 OF ANY NONAPPEALABLE OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B OR IS
17 CONVICTED OF ANY NONAPPEALABLE OFFENSE THAT AMOUNTS TO UNPROFESSIONAL CONDUCT
18 UNDER THIS SECTION SHALL IMMEDIATELY DO ALL OF THE FOLLOWING:

19 1. SURRENDER ANY CERTIFICATES ISSUED BY THE DEPARTMENT OF EDUCATION.
20 2. NOTIFY THE PERSON'S EMPLOYER OR POTENTIAL EMPLOYER OF THE
21 CONVICTION.

22 3. NOTIFY THE DEPARTMENT OF PUBLIC SAFETY OF THE CONVICTION.

23 4. SURRENDER THE PERSON'S FINGERPRINT CLEARANCE CARD.

24 Sec. 4. Section 41-1750, Arizona Revised Statutes, is amended to read:
25 41-1750. Central state repository; department of public safety;

26 duties; funds; accounts; definitions

27 A. The department is responsible for the effective operation of the
28 central state repository in order to collect, store and disseminate complete
29 and accurate Arizona criminal history records and related criminal justice
30 information. The department shall:

31 1. Procure from all criminal justice agencies in this state accurate
32 and complete personal identification data, fingerprints, charges, process
33 control numbers and dispositions and such other information as may be
34 pertinent to all persons who have been charged with, arrested for, convicted
35 of or summoned to court as a criminal defendant for a felony offense or an
36 offense involving domestic violence as defined in section 13-3601 or a
37 violation of title 13, chapter 14 or title 28, chapter 4.

38 2. Collect information concerning the number and nature of offenses
39 known to have been committed in this state and of the legal steps taken in
40 connection with these offenses, such other information that is useful in the
41 study of crime and in the administration of criminal justice and all other
42 information deemed necessary to operate the statewide uniform crime reporting
43 program and to cooperate with the federal government uniform crime reporting
44 program.

1 3. Collect information concerning criminal offenses that manifest
2 evidence of prejudice based on race, color, religion, national origin, sexual
3 orientation, gender or disability.

4 4. Cooperate with the central state repositories in other states and
5 with the appropriate agency of the federal government in the exchange of
6 information pertinent to violators of the law.

7 5. Ensure the rapid exchange of information concerning the commission
8 of crime and the detection of violators of the law among the criminal justice
9 agencies of other states and of the federal government.

10 6. Furnish assistance to peace officers throughout this state in crime
11 scene investigation for the detection of latent fingerprints and in the
12 comparison of latent fingerprints.

13 7. Conduct periodic operational audits of the central state repository
14 and of a representative sample of other agencies that contribute records to
15 or receive criminal justice information from the central state repository or
16 through the Arizona criminal justice information system.

17 8. Establish and enforce the necessary physical and system safeguards
18 to ensure that the criminal justice information maintained and disseminated
19 by the central state repository or through the Arizona criminal justice
20 information system is appropriately protected from unauthorized inquiry,
21 modification, destruction or dissemination as required by this section.

22 9. Aid and encourage coordination and cooperation among criminal
23 justice agencies through the statewide and interstate exchange of criminal
24 justice information.

25 10. Provide training and proficiency testing on the use of criminal
26 justice information to agencies receiving information from the central state
27 repository or through the Arizona criminal justice information system.

28 11. Operate and maintain the Arizona automated fingerprint
29 identification system established pursuant to section 41-2411.

30 12. Provide criminal history record information to the fingerprinting
31 division for the purpose of screening applicants for fingerprint clearance
32 cards.

33 B. The director may establish guidelines for the submission and
34 retention of criminal justice information as deemed useful for the study or
35 prevention of crime and for the administration of criminal justice.

36 C. The chief officers of criminal justice agencies of this state or
37 its political subdivisions shall provide to the central state repository
38 fingerprints and information concerning personal identification data,
39 descriptions, crimes for which persons are arrested, process control numbers
40 and dispositions and such other information as may be pertinent to all
41 persons who have been charged with, arrested for, convicted of or summoned to
42 court as criminal defendants for felony offenses or offenses involving
43 domestic violence as defined in section 13-3601 or violations of title 13,
44 chapter 14 or title 28, chapter 4 that have occurred in this state.

1 D. The chief officers of law enforcement agencies of this state or its
2 political subdivisions shall provide to the department such information as
3 necessary to operate the statewide uniform crime reporting program and to
4 cooperate with the federal government uniform crime reporting program.

5 E. The chief officers of criminal justice agencies of this state or
6 its political subdivisions shall comply with the training and proficiency
7 testing guidelines as required by the department to comply with the federal
8 national crime information center mandates.

9 F. The chief officers of criminal justice agencies of this state or
10 its political subdivisions also shall provide to the department information
11 concerning crimes that manifest evidence of prejudice based on race, color,
12 religion, national origin, sexual orientation, gender or disability.

13 G. The director shall authorize the exchange of criminal justice
14 information between the central state repository, or through the Arizona
15 criminal justice information system, whether directly or through any
16 intermediary, only as follows:

17 1. With criminal justice agencies of the federal government, Indian
18 tribes, this state or its political subdivisions and other states, on request
19 by the chief officers of such agencies or their designated representatives,
20 specifically for the purposes of the administration of criminal justice and
21 for evaluating the fitness of current and prospective criminal justice
22 employees.

23 2. With any noncriminal justice agency pursuant to a statute,
24 ordinance or executive order that specifically authorizes the noncriminal
25 justice agency to receive criminal history record information for the purpose
26 of evaluating the fitness of current or prospective licensees, employees,
27 contract employees or volunteers, on submission of the subject's fingerprints
28 and the prescribed fee. Each statute, ordinance, or executive order that
29 authorizes noncriminal justice agencies to receive criminal history record
30 information for these purposes shall identify the specific categories of
31 licensees, employees, contract employees or volunteers, and shall require
32 that fingerprints of the specified individuals be submitted in conjunction
33 with such requests for criminal history record information.

34 3. With the board of fingerprinting for the purpose of conducting good
35 cause exceptions pursuant to section 41-619.55.

36 4. With any individual for any lawful purpose on submission of the
37 subject of record's fingerprints and the prescribed fee.

38 5. With the governor, if the governor elects to become actively
39 involved in the investigation of criminal activity or the administration of
40 criminal justice in accordance with the governor's constitutional duty to
41 ensure that the laws are faithfully executed or as needed to carry out the
42 other responsibilities of the governor's office.

43 6. With regional computer centers that maintain authorized
44 computer-to-computer interfaces with the department, that are criminal
45 justice agencies or under the management control of a criminal justice agency

1 and that are established by a statute, ordinance or executive order to
2 provide automated data processing services to criminal justice agencies
3 specifically for the purposes of the administration of criminal justice or
4 evaluating the fitness of regional computer center employees who have access
5 to the Arizona criminal justice information system and the national crime
6 information center system.

7 7. With an individual who asserts a belief that criminal history
8 record information relating to the individual is maintained by an agency or
9 in an information system in this state that is subject to this section. On
10 submission of fingerprints, the individual may review this information for
11 the purpose of determining its accuracy and completeness by making
12 application to the agency operating the system. Rules adopted under this
13 section shall include provisions for administrative review and necessary
14 correction of any inaccurate or incomplete information. The review and
15 challenge process authorized by this paragraph is limited to criminal history
16 record information.

17 8. With individuals and agencies pursuant to a specific agreement with
18 a criminal justice agency to provide services required for the administration
19 of criminal justice pursuant to that agreement if the agreement specifically
20 authorizes access to data, limits the use of data to purposes for which given
21 and ensures the security and confidentiality of the data consistent with this
22 section.

23 9. With individuals and agencies for the express purpose of research,
24 evaluative or statistical activities pursuant to an agreement with a criminal
25 justice agency if the agreement specifically authorizes access to data,
26 limits the use of data to research, evaluative or statistical purposes and
27 ensures the confidentiality and security of the data consistent with this
28 section.

29 10. With the auditor general for audit purposes.

30 11. With central state repositories of other states for noncriminal
31 justice purposes for dissemination in accordance with the laws of those
32 states.

33 12. On submission of the fingerprint card, with the department of
34 economic security to provide criminal history record information on
35 prospective adoptive parents for the purpose of conducting the preadoption
36 certification investigation under title 8, chapter 1, article 1 if the
37 department of economic security is conducting the investigation, or with an
38 agency or a person appointed by the court, if the agency or person is
39 conducting the investigation. Information received under this paragraph
40 shall only be used for the purposes of the preadoption certification
41 investigation.

42 13. With the department of economic security and the superior court for
43 the purpose of evaluating the fitness of custodians or prospective custodians
44 of juveniles, including parents, relatives and prospective guardians.
45 Information received under this paragraph shall only be used for the purposes

1 of that evaluation. The information shall be provided on submission of
2 either:

3 (a) The fingerprint card.

4 (b) The name, date of birth and social security number of the person.

5 14. On submission of a fingerprint card, provide criminal history
6 record information to the superior court for the purpose of evaluating the
7 fitness of investigators appointed under section 14-5303 or 14-5407, or
8 guardians appointed under section 14-5206.

9 15. With the supreme court to provide criminal history record
10 information on prospective fiduciaries pursuant to section 14-5651.

11 16. With the department of juvenile corrections to provide criminal
12 history record information pursuant to section 41-2814.

13 17. On submission of the fingerprint card, provide criminal history
14 record information to the Arizona peace officer standards and training board
15 or a board certified law enforcement academy to evaluate the fitness of
16 prospective cadets.

17 18. With the internet sex offender web site database established
18 pursuant to section 13-3827.

19 19. With licensees of the United States nuclear regulatory commission
20 for the purpose of determining whether an individual should be granted
21 unescorted access to the protected area of a commercial nuclear generating
22 station on submission of the subject of record's fingerprints and the
23 prescribed fee.

24 20. With the state board of education for the purpose of evaluating the
25 fitness of a certificated teacher or administrator or an applicant for a
26 teaching or an administrative certificate provided that the state board of
27 education or its employees or agents have reasonable suspicion that the
28 certificated person engaged in conduct that would be a criminal violation of
29 the laws of this state or was involved in immoral or unprofessional conduct
30 or that the applicant engaged in conduct that would warrant disciplinary
31 action if the applicant were certificated at the time of the alleged conduct.
32 The information shall be provided on the submission of either:

33 (a) The fingerprint card.

34 (b) The name, date of birth and social security number of the person.

35 21. WITH EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS STATE. THE
36 STATE BOARD OF EDUCATION AND THE STATE BOARD FOR CHARTER SCHOOLS SHALL
37 PROVIDE THE DEPARTMENT OF PUBLIC SAFETY WITH A CURRENT LIST OF ELECTRONIC
38 E-MAIL ADDRESSES FOR EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS STATE
39 AND SHALL PERIODICALLY PROVIDE THE DEPARTMENT OF PUBLIC SAFETY WITH UPDATED
40 ELECTRONIC E-MAIL ADDRESSES. IF THE DEPARTMENT OF PUBLIC SAFETY IS NOTIFIED
41 THAT A PERSON WHO IS REQUIRED TO HAVE A FINGERPRINT CLEARANCE CARD TO BE
42 EMPLOYED BY OR TO ENGAGE IN VOLUNTEER ACTIVITIES AT A SCHOOL DISTRICT OR
43 CHARTER SCHOOL HAS BEEN ARRESTED OR CONVICTED OF AN OFFENSE LISTED IN SECTION
44 41-1758.03, SUBSECTION B OR HAS BEEN ARRESTED OR CONVICTED OF AN OFFENSE THAT
45 AMOUNTS TO UNPROFESSIONAL CONDUCT UNDER SECTION 15-550, THE DEPARTMENT OF

1 PUBLIC SAFETY SHALL NOTIFY EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS
2 STATE THAT THE PERSON'S FINGERPRINT CLEARANCE CARD HAS BEEN SUSPENDED OR
3 REVOKED.

4 H. The director shall adopt rules necessary to execute this section.

5 I. The director, in the manner prescribed by law, shall remove and
6 destroy records that the director determines are no longer of value in the
7 detection or prevention of crime.

8 J. The director shall establish a fee in an amount necessary to cover
9 the cost of federal noncriminal justice fingerprint processing for criminal
10 history record information checks that are authorized by law for noncriminal
11 justice employment, licensing or other lawful purposes. An additional fee
12 may be charged by the department for state noncriminal justice fingerprint
13 processing. Fees submitted to the department for state noncriminal justice
14 fingerprint processing are not refundable.

15 K. The director shall establish a fee in an amount necessary to cover
16 the cost of processing copies of department reports, eight by ten inch black
17 and white photographs or eight by ten inch color photographs of traffic
18 accident scenes.

19 L. Except as provided in subsection O of this section, each agency
20 authorized by this section may charge a fee, in addition to any other fees
21 prescribed by law, in an amount necessary to cover the cost of state and
22 federal noncriminal justice fingerprint processing for criminal history
23 record information checks that are authorized by law for noncriminal justice
24 employment, licensing or other lawful purposes.

25 M. A fingerprint account within the records processing fund is
26 established for the purpose of separately accounting for the collection and
27 payment of fees for noncriminal justice fingerprint processing by the
28 department. Monies collected for this purpose shall be credited to the
29 account, and payments by the department to the United States for federal
30 noncriminal justice fingerprint processing shall be charged against the
31 account. Monies in the account not required for payment to the United States
32 shall be used by the department in support of the department's noncriminal
33 justice fingerprint processing duties. At the end of each fiscal year, any
34 balance in the account not required for payment to the United States or to
35 support the department's noncriminal justice fingerprint processing duties
36 reverts to the state general fund.

37 N. A records processing fund is established for the purpose of
38 separately accounting for the collection and payment of fees for department
39 reports and photographs of traffic accident scenes processed by the
40 department. Monies collected for this purpose shall be credited to the fund
41 and shall be used by the department in support of functions related to
42 providing copies of department reports and photographs. At the end of each
43 fiscal year, any balance in the fund not required for support of the
44 functions related to providing copies of department reports and photographs
45 reverts to the state general fund.

1 O. The department of economic security may pay from appropriated
2 monies the cost of federal fingerprint processing or federal criminal history
3 record information checks that are authorized by law for employees and
4 volunteers of the department, guardians pursuant to section 46-134,
5 subsection A, paragraph 15, the licensing of foster parents or the
6 certification of adoptive parents.

7 P. The director shall adopt rules that provide for:

8 1. The collection and disposition of fees pursuant to this section.

9 2. The refusal of service to those agencies that are delinquent in
10 paying these fees.

11 Q. The director shall ensure that the following limitations are
12 observed regarding dissemination of criminal justice information obtained
13 from the central state repository or through the Arizona criminal justice
14 information system:

15 1. Any criminal justice agency that obtains criminal justice
16 information from the central state repository or through the Arizona criminal
17 justice information system assumes responsibility for the security of the
18 information and shall not secondarily disseminate this information to any
19 individual or agency not authorized to receive this information directly from
20 the central state repository or originating agency.

21 2. Dissemination to an authorized agency or individual may be
22 accomplished by a criminal justice agency only if the dissemination is for
23 criminal justice purposes in connection with the prescribed duties of the
24 agency and not in violation of this section.

25 3. Criminal history record information disseminated to noncriminal
26 justice agencies or to individuals shall be used only for the purposes for
27 which it was given. Secondary dissemination is prohibited unless otherwise
28 authorized by law.

29 4. The existence or nonexistence of criminal history record
30 information shall not be confirmed to any individual or agency not authorized
31 to receive the information itself.

32 5. Criminal history record information to be released for noncriminal
33 justice purposes to agencies of other states shall only be released to the
34 central state repositories of those states for dissemination in accordance
35 with the laws of those states.

36 6. Criminal history record information shall be released to
37 noncriminal justice agencies of the federal government pursuant to the terms
38 of the federal security clearance information act (P.L. 99-169).

39 R. This section and the rules adopted under this section apply to all
40 agencies and individuals collecting, storing or disseminating criminal
41 justice information processed by manual or automated operations if the
42 collection, storage or dissemination is funded in whole or in part with
43 monies made available by the law enforcement assistance administration after
44 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
45 all agencies that interact with or receive criminal justice information from

1 or through the central state repository and through the Arizona criminal
2 justice information system.

3 S. This section does not apply to criminal history record information
4 contained in:

5 1. Posters, arrest warrants, announcements or lists for identifying or
6 apprehending fugitives or wanted persons.

7 2. Original records of entry such as police blotters maintained by
8 criminal justice agencies, compiled chronologically and required by law or
9 long-standing custom to be made public if these records are organized on a
10 chronological basis.

11 3. Transcripts or records of judicial proceedings if released by a
12 court or legislative or administrative proceedings.

13 4. Announcements of executive clemency or pardon.

14 5. Computer databases, other than the Arizona criminal justice
15 information system, that are specifically designed for community notification
16 of an offender's presence in the community pursuant to section 13-3825 or for
17 public informational purposes authorized by section 13-3827.

18 T. Nothing in this section prevents a criminal justice agency from
19 disclosing to the public criminal history record information that is
20 reasonably contemporaneous to the event for which an individual is currently
21 within the criminal justice system, including information noted on traffic
22 accident reports concerning citations, blood alcohol tests, intoxilyzer tests
23 or arrests made in connection with the traffic accident being investigated.

24 U. In order to ensure that complete and accurate criminal history
25 record information is maintained and disseminated by the central state
26 repository:

27 1. The arresting authority shall take legible fingerprints of all
28 persons arrested for offenses specified in subsection C of this section and,
29 within ten days of the arrest, the arresting authority shall forward the
30 fingerprints to the department in the manner or form required by the
31 department. On the issuance and service of a summons for a defendant who is
32 charged with a felony offense, a violation of title 13, chapter 14 or title
33 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
34 the court shall order that the defendant be fingerprinted by the appropriate
35 law enforcement agency and that the defendant appear at a designated time and
36 place for fingerprinting. At the initial appearance or on the arraignment of
37 a summoned defendant who is charged with a felony offense, a violation of
38 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
39 defined in section 13-3601, the court shall order that the defendant be
40 fingerprinted at a designated time and place by the appropriate law
41 enforcement agency if the court has reasonable cause to believe that the
42 defendant was not previously fingerprinted.

1 2. In every criminal case in which the defendant is incarcerated or
2 fingerprinted as a result of the charge, an originating law enforcement
3 agency or prosecutor, within forty days of the disposition, shall advise the
4 central state repository of all dispositions concerning the termination of
5 criminal proceedings against an individual arrested for an offense specified
6 in subsection C of this section. This information shall be submitted on a
7 form or in a manner required by the department.

8 3. Dispositions resulting from formal proceedings in a court having
9 jurisdiction in a criminal action against an individual who is arrested for
10 an offense specified in subsection C of this section or section 8-341,
11 subsection T shall be reported to the central state repository within forty
12 days of the date of the disposition. This information shall be submitted on
13 a form or in a manner specified by rules approved by the supreme court.

14 4. The state department of corrections or the department of juvenile
15 corrections, within forty days, shall advise the central state repository
16 that it has assumed supervision of a person convicted of an offense specified
17 in subsection C of this section or section 8-341, subsection T. The state
18 department of corrections or the department of juvenile corrections shall
19 also report dispositions that occur thereafter to the central state
20 repository within forty days of the date of the dispositions. This
21 information shall be submitted on a form or in a manner required by the
22 department of public safety.

23 5. Each criminal justice agency shall query the central state
24 repository before dissemination of any criminal history record information to
25 ensure the completeness of the information. Inquiries shall be made before
26 any dissemination except in those cases in which time is of the essence and
27 the repository is technically incapable of responding within the necessary
28 time period. If time is of the essence, the inquiry shall still be made and
29 the response shall be provided as soon as possible.

30 V. The director shall adopt rules specifying that any agency that
31 collects, stores or disseminates criminal justice information that is subject
32 to this section shall establish effective security measures to protect the
33 information from unauthorized access, disclosure, modification or
34 dissemination. The rules shall include reasonable safeguards to protect the
35 affected information systems from fire, flood, wind, theft, sabotage or other
36 natural or man-made hazards or disasters.

37 W. The department shall make available to agencies that contribute to,
38 or receive criminal justice information from, the central state repository or
39 through the Arizona criminal justice information system a continuing training
40 program in the proper methods for collecting, storing and disseminating
41 information in compliance with this section.

42 X. Nothing in this section creates a cause of action or a right to
43 bring an action including an action based on discrimination due to sexual
44 orientation.

1 Y. For the purposes of this section:

2 1. "Administration of criminal justice" means performance of the
3 detection, apprehension, detention, pretrial release, posttrial release,
4 prosecution, adjudication, correctional supervision or rehabilitation of
5 criminal offenders. Administration of criminal justice includes enforcement
6 of criminal traffic offenses and civil traffic violations, including parking
7 violations, when performed by a criminal justice agency. Administration of
8 criminal justice also includes criminal identification activities and the
9 collection, storage and dissemination of criminal history record information.

10 2. "Administrative records" means records that contain adequate and
11 proper documentation of the organization, functions, policies, decisions,
12 procedures and essential transactions of the agency and that are designed to
13 furnish information to protect the rights of this state and of persons
14 directly affected by the agency's activities.

15 3. "Arizona criminal justice information system" or "system" means the
16 statewide information system managed by the director for the collection,
17 processing, preservation, dissemination and exchange of criminal justice
18 information and includes the electronic equipment, facilities, procedures and
19 agreements necessary to exchange this information.

20 4. "Central state repository" means the central location within the
21 department for the collection, storage and dissemination of Arizona criminal
22 history records and related criminal justice information.

23 5. "Criminal history record information" and "criminal history record"
24 means information that is collected by criminal justice agencies on
25 individuals and that consists of identifiable descriptions and notations of
26 arrests, detentions, indictments and other formal criminal charges, and any
27 disposition arising from those actions, sentencing, formal correctional
28 supervisory action and release. Criminal history record information and
29 criminal history record do not include identification information to the
30 extent that the information does not indicate involvement of the individual
31 in the criminal justice system or information relating to juveniles unless
32 they have been adjudicated as adults.

33 6. "Criminal justice agency" means either:

34 (a) A court at any governmental level with criminal or equivalent
35 jurisdiction, including courts of any foreign sovereignty duly recognized by
36 the federal government.

37 (b) A government agency or subunit of a government agency that is
38 specifically authorized to perform as its principal function the
39 administration of criminal justice pursuant to a statute, ordinance or
40 executive order and that allocates more than fifty per cent of its annual
41 budget to the administration of criminal justice. This subdivision includes
42 agencies of any foreign sovereignty duly recognized by the federal
43 government.

1 7. "Criminal justice information" means information that is collected
2 by criminal justice agencies and that is needed for the performance of their
3 legally authorized and required functions, such as criminal history record
4 information, citation information, stolen property information, traffic
5 accident reports, wanted persons information and system network log searches.
6 Criminal justice information does not include the administrative records of a
7 criminal justice agency.

8 8. "Disposition" means information disclosing that a decision has been
9 made not to bring criminal charges or that criminal proceedings have been
10 concluded or information relating to sentencing, correctional supervision,
11 release from correctional supervision, the outcome of an appellate review of
12 criminal proceedings or executive clemency.

13 9. "Dissemination" means the written, oral or electronic communication
14 or transfer of criminal justice information to individuals and agencies other
15 than the criminal justice agency that maintains the information.
16 Dissemination includes the act of confirming the existence or nonexistence of
17 criminal justice information.

18 10. "Management control":

19 (a) Means the authority to set and enforce:

20 (i) Priorities regarding development and operation of criminal justice
21 information systems and programs.

22 (ii) Standards for the selection, supervision and termination of
23 personnel involved in the development of criminal justice information systems
24 and programs and in the collection, maintenance, analysis and dissemination
25 of criminal justice information.

26 (iii) Policies governing the operation of computers, circuits and
27 telecommunications terminals used to process criminal justice information to
28 the extent that the equipment is used to process, store or transmit criminal
29 justice information.

30 (b) Includes the supervision of equipment, systems design, programming
31 and operating procedures necessary for the development and implementation of
32 automated criminal justice information systems.

33 11. "Process control number" means the Arizona automated fingerprint
34 identification system number that attaches to each arrest event at the time
35 of fingerprinting and that is assigned to the arrest fingerprint card,
36 disposition form and other pertinent documents.

37 12. "Secondary dissemination" means the dissemination of criminal
38 justice information from an individual or agency that originally obtained the
39 information from the central state repository or through the Arizona criminal
40 justice information system to another individual or agency.

41 13. "Sexual orientation" means consensual homosexuality or
42 heterosexuality.

43 14. "Subject of record" means the person who is the primary subject of
44 a criminal justice record.

1 Sec. 5. Notification to school employees

2 Within thirty days after the effective date of this act, a school
3 district or charter school shall notify in writing to each person employed at
4 the school district or charter school that is subject to fingerprinting
5 requirements of the notification requirements in section 15-183, subsection
6 C, paragraph 6 or 7 or section 15-550, subsection C or D, Arizona Revised
7 Statutes, as amended by this act.

APPROVED BY THE GOVERNOR MAY 20, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2008.